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Report of the independent expert on the question of human rights and extreme poverty

Note by the Secretary-General

The Secretary-General has the honour to transmit to the Members of the General Assembly the report on the question of human rights and extreme poverty submitted by Magdalena Sepúlveda Carmona, independent expert on the question of human rights and extreme poverty, in accordance with resolution 8/11 of the Human Rights Council.

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Summary

The mandate of the United Nations independent expert on the question of human rights and extreme poverty is outlined in Human Rights Council resolution 8/11. The expert focuses her activities on the integration of a human rights perspective into international, regional and national efforts to reduce poverty and is currently paying particular attention to social protection and social security systems.

The present report addresses the impact of the current global financial crisis on people living in extreme poverty and the enjoyment of their human rights. It stresses that the crisis offers an opportunity to move beyond the restructuring of the global financial and monetary systems and to place people at the centre of policy measures by enhancing social protection systems from a human rights-based approach. The report describes how human rights standards provide a normative framework for the adoption of social protection measures and provide guidance for their design, implementation and evaluation. Beyond reaffirming political will to rescue economies, the report urges the international community to take action and mobilize support in order to ensure that those who continue to suffer the most acute consequences of economic crises are protected and supported through the adoption and strengthening of social protection systems.

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I. Introduction

1. In resolution 8/11, the Human Rights Council calls upon the independent expert on the question of human rights and extreme poverty to contribute to international efforts related to the elimination of poverty.

2. In 2009, the independent expert participated in the tenth special session of the Human Rights Council on the theme "The impact of the global economic and financial crises on the universal realization and effective enjoyment of human rights". She also sent a written contribution to the United Nations Conference on the World Financial and Economic Crisis and Its Impact on Development. During the eleventh session of the Human Rights Council, the independent expert presented a report which analyses cash transfer programmes from a human rights perspective.

3. The present report analyses why there has been a revival of interest in social protection in recent months, and how this has translated into practice. It argues that human rights principles and standards need to be considered as a priority in this respect.

4. First, the report offers an overview of the impact of the global financial crisis on the enjoyment of human rights. It then describes the existing human rights framework for social protection systems and indicates the requirements for adopting a human rights-based approach in order to assist the implementation of these initiatives. It also describes recent initiatives announced at the international level to enhance social protection. The report concludes with recommendations for the enhancement of social protection systems using a human rights-based approach.

II. The urgent need to fulfil long-standing commitments

5. In recent months, millions of people on every continent have been rapidly pushed into poverty and extreme poverty as a result of the downturn in the financial markets in developed countries and the resulting slowdown of the global economy.[1]

6. The unprecedented impact of the current global economic and financial crisis on the poor is very alarming. This crisis demonstrates the urgent need to establish and expand social protection systems around the world in order to protect those already living in poverty and to prevent yet more people being pushed into a life of poverty. Human rights standards provide a normative framework that demand the adoption of social protection measures and provide guidance for their design, implementation and evaluation.

7. The crisis has had devastating consequences on the enjoyment of human rights, especially among vulnerable groups, and this demands immediate attention and action. The rapid rise in levels of poverty is not an unpredictable accident. The failure of States to protect people against economic hazards, and the fact that 80 per cent of the world's population have little or no access to adequate social protection coverage,[2] have greatly contributed to what can only be called a human rights disaster.

[1] See, for example, World Bank, *Global Monitoring Report 2009: a development emergency* (Washington, D.C., 2009), pp. 1 and 2.

[2] UNDP, Cash Transfers and Social Protection, International Policy Centre for Inclusive Growth, 2008.

8. This current crisis, like previous ones, shows that neglecting social protection and the provision of social services comes at very high cost for present and future generations. Whereas the actual economic slowdown may be limited in time, its effects on many people may last for generations. The crisis may trap those who are unable to afford basic needs during a prolonged period of unemployment and very scarce income in extreme poverty for the rest of their lives, and their children may also face a lifetime of poverty.

9. Ensuring access to social protection is not an optional policy choice or a gesture of charity, but an obligation enshrined in international human rights law. Moreover, evidence from previous crises indicates that ensuring universal access to social protection is a sound economic decision.[3]

10. In recent months, world leaders have repeatedly expressed their determination to respond to the collapse of financial markets. The allocation of public funding amounting to as much as $18 trillion (or almost 30 per cent of the gross world product)[4] to recapitalize banks, nationalize financial institutions and provide guarantees on financial assets, as well as the elaboration of fiscal stimulus plans amounting to about $2.7 trillion, demonstrates unprecedented political will to respond to the crisis. We must generate similar political will to ensure that long-standing pledges to reduce and eradicate poverty are translated into action and results.

11. There is evidence of substantial political momentum in favour of investments in social protection as a response to the crisis. It is crucial, however, that any measures taken are not short-sighted and do not ignore human rights commitments. States must not focus only on fixing the obvious problems in the architecture of the international financial and monetary system which have been revealed by the crisis. Such measures would be insufficient if people who are suffering as a result of the crisis are not put at the centre of the agenda and steps are not taken to protect their rights.

12. Beyond reaffirming the political will to rescue economies, the General Assembly must mobilize action to fulfil long-standing commitments to end poverty and respect human rights. Irrespective of crises, it is time to accept and recognize that social protection systems are necessary to effectively fulfil these commitments by providing protection to those people that continue to suffer the most acute consequences of economic shocks.

13. Admittedly, establishing social protection schemes is not a simple task. Tight budgets increase this challenge, particularly during a period of economic turbulence, but legally binding human rights standards demand the adoption of social protection schemes at all times. It must be underlined that social protection policies and schemes contribute to the realization of human rights.

14. Adopting a human rights-based approach to investment in social protection not only gives legitimacy to these investments, but is also instrumental in protecting them against the effects of corruption, clientelism and political instability that changes in Governments can cause.

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[3] Martin Ravallion, "Bailing out the world's poorest", *Policy Research Working Paper 4763* (World Bank, Washington, D.C., October 2008).

[4] A/CONF.214/4, p. 3.

III. Social protection systems

15. For the purpose of this report, social protection is defined as encompassing a wide range of policies designed to address the risks and vulnerabilities of individuals and groups, both those who can and those who cannot work, in order to help them cope and overcome situations of poverty, especially when it results from incidents outside their control. Social protection includes a broad range of instruments ranging from safety nets, social assistance and social insurance to mutual and informal risk management.

16. Social protection systems are an important dimension in the reduction of poverty. They serve to protect the most vulnerable from falling further into poverty and ensure access to health services and education. Social protection systems act as economic stabilizers, thereby limiting the contraction of aggregate demand and in turn curtailing the potential depth of a recession. They also assist in building social cohesion, which can reduce the likelihood of social unrest. In addition, if they are well designed, social protection systems may contribute to the achievement of several human rights, such as the rights to adequate standard of living, health, education and social security.

17. Social protection systems are generally structured around three main objectives: (a) facilitating recovery from the crises that have led people to become poor; (b) contributing to the ability of chronically poor people to emerge from poverty and to challenge oppressive socio-economic relationships; (c) supporting the less active poor (such as the elderly, persons with disabilities and children) so that poverty will not be inherited by the next generation.

18. For all three steps, a large number of measures and instruments already exist for States to put a social protection system in place (for example, insurance schemes, public works, food aid, targeted cash transfer or social funds). However, not all of these measures in their current form result in poverty alleviation or the realization of human rights.

IV. The global financial crisis and its impact on the human rights of people living in extreme poverty

19. In recent months, Governments have repeatedly accepted publicly that the economic crisis affects individuals and, in particular, vulnerable groups. However, apart from a resolution on the impact of the crisis adopted by the Human Rights Council at its tenth special session,[5] most public statements fall short of recognizing that the crisis dramatically affects people's enjoyment of human rights.

20. The outcome document of the General Assembly session on the crisis, which took place in June 2009, illustrates this. It specifically mentions the need to address the human costs of the crisis, adding that these have serious developmental consequences on the human security of those affected.[6] Similarly, Governments of

[5] The Council expressed deep concern that the universal realization and effective enjoyment of human rights are being challenged due to multiple and interrelated effects of the crisis; see A/HRC/S-10/2.

[6] A/RES/63/303, annex, para 3.

the G-20 countries agreed that they had a "collective responsibility to mitigate the social impact of the crisis to minimize long-lasting damage to global potential".[7]

21. Such human costs or social impacts for example, hunger, malnutrition, poor health, a lack of access to social security, the absence of education, also represent a lack of enjoyment of the human rights to food, water and sanitation, health, social security, education, and, in general, the right to an adequate standard of living.

A. Overall impact of the crisis

22. The current crisis started as a crisis within capital markets in developed countries but quickly transformed into a major crisis for the real economy of the whole world. The International Monetary Fund (IMF) predicts that global activity will contract by 1.3 per cent in 2009, the worst contraction since the Second World War. While impacts may be difficult to quantify, there is no doubt that the financial crisis has already had a severe impact on the enjoyment and realization of human rights. The impact of the crisis on the enjoyment of human rights is both evident and alarming.

23. The living conditions of the extreme poor, who were already greatly affected by the dramatic rise in 2008 of food and energy prices, have worsened. More than 125 million people have already been pushed into poverty as a result of the food price crisis and estimates project that the current crisis may push 55 to 90 million more into extreme poverty in 2009.[8]

24. According to the International Labour Organization (ILO), the global number of unemployed persons could increase by between 20 million and 50 million in 2009 over 2007.[9] Not only will there be more unemployment, but labour conditions are also very likely to worsen owing to the shortage of employment opportunities.

25. According to the most recent assessment of progress towards the Millennium Development Goals, there are areas where progress has slowed or reversed.[10] Estimates indicate that in some of the most vulnerable and low-growth economies of sub-Saharan Africa and Southern Asia, regions in which the majority of people are living in extreme poverty, both the number of poor and the poverty rate are expected to increase.[11]

26. While all countries have been affected by the crisis, developing countries face additional difficulties in coping with the crisis owing to their limited technical and institutional capacity to respond. In low-income countries public budgets may shrink dramatically as a result of the reductions in export volumes, commodity prices, remittances, tourism and foreign direct investment, as well as possible reductions in bilateral and multilateral aid. Unsurprisingly, three quarters of the

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[7] "The global plan for recovery and reform", G-20 communiqué (2 April 2009), para. 25.

[8] World Bank, *Global Monitoring Report 2009: a development emergency* (Washington, D.C., 2009), pp. 1 and 2.

[9] See International Labour Organization, *Global Employment Trends, January 2009* (Geneva, 2009).

[10] United Nations, *The Millennium Development Goals Report 2009* (New York, 2009), p. 4.

[11] Ibid., p. 7.

countries with limited fiscal capacity are experiencing the further damaging effects of the crisis and require immediate assistance to help protect poor households.[12]

27. The negative impact of the crisis on the enjoyment of economic, social and cultural rights and the disproportionate effect it has upon vulnerable individuals and groups must be underlined. Not only does the crisis affect the enjoyment of those rights, but it also leads to economic hardship and greater inequalities, which increase social tensions and can lead to social and domestic violence, increased criminal behaviour and weaker governance. Thus, the crisis has an impact on all human rights: cultural, civil, economic, political and social.

B. The right to food

28. According to the Food and Agriculture Organization of the United Nations (FAO), the number of people suffering from malnutrition is expected to reach a historic peak of over one billion people in 2009.[13] The United Nations Children's Fund (UNICEF) estimates the number of hungry people in South Asia to have risen to 405.6 million in 2008 from 300.6 million in 2006.[14]

29. Despite the decline in oil prices, food prices remain generally very high, at 2007 levels.[15] This, along with the economic recession, has severely impacted household food consumption. According to FAO, staple food prices continue to increase in some developing countries, especially in low-income food deficit countries.[16] This must be taken into consideration along with evidence from previous crises, notably in Asia, where poor households cut down on non-staple food consumption as the first coping strategy to save on food costs and reduce overall expenditure.[17]

30. Therefore, although price increases and economic downturns can be temporary, they can have long-lasting effects on individuals because of reductions in their food consumption. The distinct nutritional needs of pregnant and lactating women and children are especially affected. Within households, women tend to be the first to make sacrifices, which can cause maternal under-nutrition, poor foetal growth and stunting in the first years of the child's growth. These elements are known to affect the survival and development of children. In the long run this can have detrimental effects on the child's schooling, leading to impaired human capital, reduced productivity and, therefore, lesser ability to emerge from poverty.

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[12] See Louise Cord and others, "The global economic crisis: assessing vulnerability with a poverty lens", Policy note (Washington, D.C., World Bank, 2009).

[13] Food and Agriculture Organization of the United Nations, *The State of Food Insecurity in the World 2008* (Rome, 2008).

[14] See UNICEF, "A matter of magnitude: the impact of the economic crisis on women and children in South Asia" (June 2009).

[15] Food and Agriculture Organization of the United Nations, Crop prospects and food situation, No. 3 (July 2009).

[16] Ibid.

[17] UNICEF, "A matter of magnitude: the impact of the economic crisis on women and children in South Asia" (June 2009).

C. The right to health

31. One result of poorer nutrition is that the health status of persons living in poverty is likely to deteriorate, with effects that are very difficult to reverse. Two factors should be taken into account. First, the 2007-2008 food price crisis has already aggravated the health status of many.[18] Second, income shortages and income insecurity, coupled with an absence of social assistance measures, worsen the situation.

32. It is, at this stage, too early to identify specific elements of deteriorating health status due to this crisis, but data on the impact of the food price crisis are becoming available and the experience of other crises suggests that these are reliable indicators. In Indonesia, the use of public health services during the 1997 economic crisis fell from 7.4 per cent to 5.6 per cent among adults and from 26 per cent to 20 per cent among children between 1997 and 1998.[19] It can be expected that a similar phenomenon will develop as a result of the current crisis in some developing countries. As of May 2009, the World Health Organization (WHO) had already recorded reduced expenditure in the health system budgets in 16 countries. [20]

D. The right to housing

33. The collapse of housing markets in developed countries triggered the current crisis. As a result of globalization of the housing and real estate finance markets and economic adjustment policies, cities had in recent years become unaffordable for inhabitants of lower-income groups. Limited access to credit, coupled with soaring unemployment rates, increases the challenges for those seeking housing, in particular those living in poverty.[21]

34. The crisis has also had an immediate impact on security of tenure, for both owners and renters, particularly in countries more directly affected by the housing market collapse. Foreclosure has meant the loss of the home, often resulting in homelessness or inadequate living conditions.

E. The right to education

35. Despite progress towards the achievement of universal primary education coverage, the recent report on the Millennium Development Goals indicates that 10 per cent of the children of primary school age are out of school, and that the pace of progress in enrolment is not adequate to the achievement of the target in 2015. The crisis increases the challenges, as improvements in enrolment have frequently been associated with increases in national spending on education, which could be reversed as national budgets tighten.

36. In previous crises, children from the poorest households have been the ones most affected by the economic downturn. Poor families often prioritize other

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[18] http://www.who.int/food_crisis/global_food_crisis/en/index.html.

[19] See "Social health protection" available at http://www.ilo.org/public/libdoc/ILC2009/TD9/Evans%20TD9.pdf.

[20] Ibid.

[21] See A/HRC/10/7.

activities, such as waged or unpaid domestic work over schooling in order to alleviate the financial burden on the family.[22] In Indonesia, for example, the 1997 economic crisis doubled the number of children that were outside of the school system.[23]

F. Impact on children

37. Evidence from previous crises regarding increases in child malnutrition and school enrolment, as described above, highlights the disproportionate impact of economic crises on children. Children are deeply affected by economic deprivation and other changes that significantly reduce family capabilities. Their dependence on family support and social services makes them particularly vulnerable to prolonged recessions and reduction in national budgets and social spending.

38. The long-term impact of the current crisis on children is particularly concerning. Various studies illustrate the lifelong repercussions from restricting children's access to health and education during crises. The impact is particularly acute when starvation, abuse or neglect is experienced in an infant's first months.[24]

G. Impact on women and gender equality

39. Women are disproportionately affected by the crisis owing to the multiple forms of discrimination that they suffer. Women are also affected by limited access to work and social benefits. They have a higher probability than men of finding themselves in a vulnerable employment situation or of being unemployed. Moreover, during periods of crisis, women tend to assume a heavier load of unpaid work and family care, the impact of which has not been fully studied or recorded. In 2008 the gender gap in employment seemed to narrow but this is only owing to the economic crisis being felt first in male dominated industries (for example, construction and automobile industries) rather than to any gains in gender equality. Moreover, sectors that employ high proportions of women are likely to shrink substantially.[25]

40. Cuts in social spending also tend to disproportionately affect women's and girls' access to education and health services. For example, more girls than boys are withdrawn from school to help with household work, serving to reinforce gender gaps in education.

41. Women and girls are also affected in the long run because of strategies adopted by households to cope with loss of income in the absence of external support. For example, pregnant women are at risk because they tend not to use medical services

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[22] See T. Woldehanna, N. Jones and B. Tefera, "The invisibility of children's paid and unpaid work: implications for Ethiopia's national poverty reduction policy", *Childhood* 2008; 15:177-201.

[23] E. Frankenberg, D. Thomas and K. Beegle, "The real costs of Indonesia's economic crisis: preliminary findings from the Indonesia family life surveys", in Rand Labor and Population Program Papers (1999).

[24] H. Alderman, J. Hoddinott and Bill Kinsey, "Long term consequences of early childhood malnutrition", *Oxford Economic Papers* (2006) and W. Fung, and W. Ha, "Intergenerational effects of the 1959-61 China famine", UNDP (2008).

[25] International Labour Organization, "The financial and economic crisis: a decent work response" (March 2009), para. 46.

that have become unaffordable, and at the same time they are more likely to fall ill because of poorer nutrition levels. Maternal mortality also rises as more childbirths are unattended. There is a risk that the Millennium Development Goals that relate to women will take even longer to achieve and that progress made with regard to gender equality will be slowed down or reversed.

H. Impact on migrants

42. There appears to be no comprehensive studies of the effects of the economic downturn on migrant workers, mainly because different sectors of the economy where migrant workers are employed are affected differently by the crisis. Two issues, however, must be highlighted. First, even before the crisis started, many migrant workers in developed and developing countries alike were already "working poor". Second, the false perception that migrants take jobs or that they compete for scarce welfare benefits tends to induce Governments to cut immigration numbers.[26]

43. Past experiences show that migrant workers, especially female migrant workers, are extremely vulnerable in times of crisis. According to ILO, even if there are no actual job losses, migrant workers may be forced to accept lower wages and endure unsatisfactory working conditions in an attempt to retain their position and maintain a secure source of income.[27] Additionally, in times of recession, the lack of work opportunities and increased discrimination and xenophobia deeply affect migrants' enjoyment of their human rights.

I. Impact on groups that are victims of multiple forms of discrimination

44. When multiple grounds of discrimination are involved, the impact of the crisis is different and they must be assessed in its complexity. Despite the difficulties in assessing the full impact of the crisis on other specific groups that are vulnerable to discrimination, evidence from past crises indicates that additional groups are disproportionately affected. For example, in times of economic recession, those who are the last to enter the labour market are the first to exit. Thus, youth, the elderly and persons with disabilities are affected disproportionately. The current crisis is also likely to affect indigenous peoples disproportionately as they are historically among the poorest and most excluded groups.

45. Depending on the experience of the individual and the confluence of various grounds for discrimination such as gender, race, ethnicity, caste, social class, age, citizenship status and other factors, some individuals are going to experience much greater hardship as a result of the crisis. Thus, the interaction between, for example, grounds such as sex, age, race and disability must be taken into account together to assess the negative impact of the crisis on the enjoyment of human rights.

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[26] "The impact of the global financial crisis on migration", *IOM Policy Brief* (January 2009).

[27] Azfar Khan, Rola Abimourched, Ruxandra Oana Ciobanu, "The global economic crisis and the impact on migrant workers" (International Labour Organization, 7 April 2009).

V. The human rights framework and social protection

46. In order to protect and respect fundamental rights that are crucial for the protection of the poor (for example, the right to health, social security and the right to an adequate standard of living), States are required to devise and implement social protection policies. Not only can social protection policies assist greatly in the achievement of all human rights, but they can also be strengthened when they follow a rights-based approach.

A. Providing a normative framework

47. Human rights law provides a normative framework that assigns rights and responsibilities to individuals, groups and States. Thus, from a human rights perspective, beneficiaries of social protection are rights-holders that can make legitimate claims related to the allocation of resources. States and other actors are duty-bearers that are responsible and can be held accountable for their acts or omissions.

48. International standards need to be enforced, and to do so States are required to adopt new laws, design regulatory frameworks, amend existing national laws and administrative practices, strengthen the judiciary, establish national human rights institutions, increase participation and improve socio-economic standards, among other things. States must therefore implement structural reforms to ensure, inter alia, free and compulsory primary education, the elimination of all forms of forced or compulsory labour, the abolition of child labour; equality before the law and equitable access to resources, which are indispensable for the good functioning of social protection systems.

49. States are also required to strengthen mechanisms that allow people to claim their rights, as well as to empower individuals to access and utilize mechanisms for claiming rights. These measures contribute greatly to reducing vulnerabilities and risks and enhancing the ability of households to manage risks and improve their standard of living. For example, potential beneficiaries of social protection programmes must know what entitlements they can receive and be able to challenge decisions that affect their benefits.

B. Recognizing rights and principles

50. In order to give full effect to the range of rights set out in international human rights law, States must implement social protection policies and systems. The duty to implement policies to advance the protection available to the poor flows directly from a number of human rights, in particular the right to social security and the right to an adequate standard of living; both of these rights are enshrined in the Universal

Declaration of Human Rights and in several international treaties[28] and ILO conventions, in particular Convention No. 102 (1952) concerning Minimum Standards of Social Security.

51. Social protection is not, however, required only in order to give effect to these two rights. A full range of other rights are relevant to social protection, such as the right to the highest attainable standard of health, the right to education, the protection of the family and maternity benefits, the right to work, the right to protection of employment and the rights of elderly persons.

52. In addition to these economic and social rights, other human rights are relevant when considering social protection measures and how they should be implemented, for example, the right to participate in public life, the right to access to information and the right to an effective remedy. The principles of equality, non-discrimination, transparency and accountability are also relevant. These rights are essential to ensure the effectiveness and appropriateness of social protection systems, for example, by enabling participation in the processes of designing a country's social protection system and ensuring that individuals can claim their entitlements.

53. Civil and political rights also contribute greatly and provide protection against certain risks and vulnerabilities, in particular, those caused by States such as inhumane treatment, arbitrary arrest or detention or unreasonable restrictions on the media and journalists.

C. Obligations imposed by economic, social and cultural rights

54. The International Covenant on Economic, Social and Cultural Rights imposed several obligations upon States parties that are relevant in the establishment of social protections schemes:

(a) The minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of all economic, social and cultural rights: the minimum levels that must be attained aim to secure basic subsistence and medical care for all members of society and provide protection to anyone without adequate resources. In this regard, social protection measures can be seen as a response to meeting basic minimum standards in relation to economic, social and cultural rights;

(b) The obligation to ensure the progressive realization of all economic, social and cultural rights: States must devote the maximum of their available resources to ensure progressive realization of these rights. It is important to note that the allocation of resources is not left to the complete discretion of States. States must grant a degree of priority to allocating resources to ensure basic subsistence

[28] The right to social security is included in the Universal Declaration of Human Rights, articles 22 and 25; the International Covenant on Economic, Social and Cultural Rights, articles 9 and 10; the International Convention on the Elimination of All Forms of Racial Discrimination, article 5.e.iv; the Convention on the Elimination of All Forms of Discrimination against Women, article 11.1.e; the Convention on the Rights of the Child, article 26; and the International Convention on the Protection of the Rights of All Migrant Workers and their Families, article 27. It also appears in regional human rights instruments such as the Protocol of San Salvador, article 9 and the European Social Charter, article 12. The African Charter on Human and Peoples' Rights stipulates that the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs, article 18.4.

and social protection to everybody. This obligation means that retrogressive measures are unacceptable. If, therefore, measures are taken to reduce the scope or level of social protection programmes, States have to show that they have been introduced after consideration of all alternatives and are fully justifiable in regard to the protection of all economic, social and cultural rights;[29]

(c) The obligation to ensure special protection for the most vulnerable individuals and groups: the human rights framework pays particular attention to individuals belonging to the most disadvantaged and marginalized groups. Their need for special assistance to ensure enjoyment of their rights must be prioritized and non-discrimination guaranteed. The principle of equality requires in certain situations that States take affirmative action or positive measures in order to diminish or eliminate conditions that cause or help to perpetuate discrimination.

D. Establishing a duty to provide international assistance and cooperation

55. The duty to cooperate is established in the Charter of the United Nations (Articles 55 and 56) and grounded in several human rights treaties (for example art. 2 of the International Covenant on Economic, Social and Cultural Rights and art. 4 of the Convention on the Rights of the Child). The responsibility of States to provide international assistance and cooperation applies to supporting and strengthening social protection systems worldwide. International cooperation is essential in order for developing States to overcome the various resource, institutional and technical limitations that they face in delivering social protection.

56. International assistance has, so far, been largely directed towards microcredit and job-creating programmes. The creation of social protection schemes should also be an objective of international aid, as it helps protect the core human rights of those who cannot generate income through work or benefit from work-related social security schemes.

VI. Adopting a human rights-based approach to social protection systems

57. A national social protection strategy cannot be considered in isolation from human rights commitments. This section illustrates how human rights are relevant to social protection and discusses some of the implications for the design and implementation of social protection schemes. When choosing the appropriate social protection system for a State, the human rights commitments discussed below should be taken into account.

[29] See CESCR general comment No. 3, para. 12; general comment No. 12, para. 28; general comment No. 14, para. 18; and general comment No. 19, paras. 40-42.

A. Recognizing the State obligation to provide social security

58. The right to social security is strongly affirmed in international human rights law, regional treaties and several ILO conventions.[30] Nevertheless, this is perhaps one of the most neglected of all human rights. It is estimated that 80 per cent of the world's population do not enjoy this right, with 20 per cent living in extreme poverty.[31] The absence of viable social security systems around the world is not an accident but it is the direct result of States' reluctance to invest in this area.

59. The normative content of the right to social security includes both social insurance (contributory schemes) and social assistance (non-contributory schemes). Non-contributory schemes play a significant role as it is unlikely that every person is adequately covered through an insurance-based system. Thus, this right places States under an obligation to protect and provide, to the maximum extent of available resources, for the poorest, who are generally not protected through contributory schemes.

60. In general comment No. 19, the Committee on Economic, Social and Cultural Rights specified the essential elements of the right to social security, which calls for assistance for health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability and survivors and orphans.[32]

61. The Committee argued that the level of the benefits must be adequate, and the qualifying conditions for the benefits must be reasonable, proportionate, transparent and accessible to those who are entitled to them. The Committee noted in particular the importance of providing minimum coverage for those working in the informal economy as they cannot access formal schemes, arguing that this right includes the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage, whether obtained publicly or privately, as well as the right to equal enjoyment of adequate protection from social risks and contingencies.[33]

62. The Committee also identified the core obligations of States, which include the obligation to provide a minimum essential level of benefits to all individuals and families, and to ensure the right of access to social security systems or schemes in a non-discriminatory manner, especially for disadvantaged and marginalized individuals and groups. Over time, the right to social security must be realized fully by States in accordance with their maximum available resources.

63. The adoption of a human rights-based approach demands that inaccurate preconceptions with regard to social security systems, for example, that they are not affordable or that they create dependency, be dismissed. Costing exercises conducted by ILO have shown that establishing a set of minimum guarantees, including basic cash benefits for the elderly and to families with children, social assistance to the unemployed and access to essential health care, is affordable, at least partially, in almost all countries.[34]

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[30] See note 28 above.

[31] "Social Security for all", *Social Security Policy Briefings*, Paper 7 (Geneva, International Labour Office, 2009), p. 3.

[32] E/C.12/GC/19.

[33] Ibid., para. 9

[34] "Can low-income countries afford basic social security?", *Social Security Policy Briefings*, Paper 3 (Geneva, International Labour Office, 2003), p. 17.

B. Respecting the principles of equality and non-discrimination

64. A human rights-based approach requires that States fulfil their duty to protect against risks and contingencies in an equitable and non-discriminatory manner. Accepting these underlying principles entails carefully screening policy choices in order to avoid the unfair exclusion of groups that would require protection.

65. This also implies a preference for schemes that are universal over those that benefit only a specific category of persons (for example, a pension for all persons over a certain age rather than only some in the age group). Even within targeting schemes, the principles of equality and non-discrimination must be respected, which makes the definition of criteria for targeting social policies a constant challenge for those working in this area.

66. Eligibility criteria utilized in targeted programmes must be fair, reasonable, objective and transparent, and individuals must have access to mechanisms for redress in case of errors. Targeted schemes must also avoid stigmatization of the beneficiaries.

67. To comply with these requirements in times of resource constraints, targeted schemes should be categorized broadly (for example, by age, location, widely recognized degree of exclusion), and within categories each provision should be universal (for example, universal coverage for everyone over 65). As capacity evolves, more sophisticated approaches to targeting can be adopted. In addition, measures must be taken to ensure that the coverage will be progressively extended to all when economic recovery takes place and public revenues improve.

68. Political decisions should be informed by the universality of human rights and by the capability of the State. Often, targeted programmes are expensive and difficult to implement, and they reduce social solidarity. Moreover, experience shows that technical problems in the design prevent targeted programmes from actually reaching the most vulnerable. Moreover, empirical research shows that careful targeting of programmes has not been accompanied by greater poverty reduction and that levels of exclusion remain high because of the data used. In a country-specific study, the World Bank estimated that the targeting criteria of one programme were as follows: "be uninformative, or even deceptive, about impacts on poverty and cost-effectiveness in reducing poverty".[35] Studies have also shown that programmes in Latin America carried levels of under-coverage varying between 26 to 84 per cent.[36] In this sense, universal programmes may in fact provide better coverage than targeted ones and they are less costly, especially in countries where administrative capacities are limited.

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[35] "How relevant is targeting to the success of an antipoverty program?" *Policy Research Working Paper 4385* (Washington, D. C., November 2007).

[36] Thandika Mkandawire, "Targeting and Universalism in Poverty Reduction", *Social Policy and Development Programme Paper Number 23* (United Nations Research Institute for Social Development, December 2005).

C. Ensuring progressive realization of economic, social and cultural rights

69. Social protection instruments must be developed taking into account the long-term impact that these measures may have in the expansion of social security coverage and the fulfilment of the State obligation to ensure it. Safety-nets programmes (generally in kind assistance schemes, such as food rations) are one particular policy instrument which is designed to prevent destitution and help people to cope with emergencies. They are put in place to prevent individuals from falling below a given standard of living and are usually short term and very narrowly targeted. These programmes can bring some immediate relief. However, if they are too limited in time and in scope they run the risk of failing to produce desired effects in terms of poverty alleviation in the long term.

70. In general, safety nets fail to address the root causes of poverty and vulnerability. Their restrictions in time and reach may lead to exclusion errors (exclusion of potential beneficiaries) that are against the principles of non-discrimination and universality. Moreover, as they are short term, they may not create incentives for States to improve the delivery of basic social services in the long term. In order to comply with the principle of progressive realization, States should devise plans to progress from safety net programmes to a stable national social security system.

D. Ensuring participation, transparency and accountability

71. A human rights-based approach to social protection systems requires taking into consideration the underlying principles of participation, accountability and transparency in the design, implementation and evaluation of all policies encompassed in the system. These principles not only are instrumental in ensuring efficiency in the adopted measures, but also respond to core obligations of States with respect to everyone's right to take part in public life, to have access to information and to have access to remedies in cases of violation.

72. Social protection systems that are developed without the active involvement of those who are supposed to benefit from them, as well as systems that do not take into account the views of those whose coping strategies they intend to support, suffer a great risk of failing to achieve their core objectives. Assessments of risks and vulnerabilities of those receiving benefits is essential information in the establishment of social protection systems, but it must not replace mechanisms to promote meaningful participation of beneficiaries throughout the design and implementation of the programmes.

73. From a human rights perspective, the capacities of rights-holders to know and claim their rights must be developed and strengthened. People must be empowered and, in this regard, access to information is crucial. If the existence of social protection programmes is unknown among those who should benefit from them, there are greater risks of unfair exclusion. Transparency around the regulation of any programme is particularly important. Measures to ensure transparency must pay special attention to ensuring that the information is accessible, culturally and physically, especially to vulnerable groups whose access may be limited by language differences, mobility limitations or lack of resources.

74. The absence of accessible and effective mechanisms to ensure transparency and accountability may easily expose social protection systems to corruption and manipulation. Programmes that do not have channels to receive, process and respond to eventual complaints by their supposed beneficiaries risk perpetuating mismanagement practices.

E. Addressing specific concerns with regard to gender, age and disabilities

75. Social protection measures need to be designed without any discrimination and to ensure protection of those most in need. While social protection instruments can contribute to the better realization of the rights of the vulnerable, poorly designed measures may have the opposite effect.

76. Social protection measures may have a different impact depending on the gender, age, disability, ethnicity or other characteristics of the beneficiary. Often, measures fail to take into account the particular requirements of female-headed households, the elderly and persons with disabilities. For example, measures taken by Governments to protect employment often tend to be based on the stereotype of the male bread-winner and female caregiver and therefore concentrate on male-dominated areas of the economy. Public works programmes, for example, tend to prioritize male-dominated employment categories such as construction.

77. Understanding social protection systems as a broad set of policies that go beyond the provision of income is essential when addressing the needs of particularly vulnerable groups that are dependent on social services for their development and social integration. There is significant evidence that children are the main indirect beneficiaries of social protection measures. Yet, there are also indications that the sole provision of income will fall short in improving the overall situation of children if essential services are unavailable or inadequate. Similarly, the absence of integrated social services for the elderly and persons with disabilities will surely reduce the impact of the provision of social security.

78. Special measures or affirmative action measures may also be required. Elderly and persons with disabilities who are unable to work require permanent coverage by social protection systems. Basic universal pensions for old age are part of what ILO considers basic social protection. At least 72 countries in the world maintain a universal pension system, out of which 46 are low- or middle-income countries.[37]

VII. Supporting social protection as a response to the crisis

79. From a human rights perspective, Government policies to stimulate growth based only on macroeconomic concerns do not necessarily help the poor and most vulnerable to recover from crises. A more systematic strategy which actively promotes the realization of human rights is needed to respond to this crisis and ensure social protection for all people at all times.

80. In the past, economic literature has asserted that there is a trade-off between the reinforcement of social protection systems to protect the poorest on the one

[37] http://www.helpage.org/Researchandpolicy/Socialprotection/PensionWatch/Feasibility.

hand, and bolstering economic recovery after a crisis on the other. This assumption has been increasingly questioned in recent years. As the World Bank explains, when public spending in a crisis reaches the poorest, it brings a larger stimulus to aggregate demand, and hence output, given that poor people tend to have a higher propensity to consume.[38]

81. Recent economic theories and evidence also call into question the existence of such a trade-off between social protection and longer-term growth, affirming that the failure to address the short-term needs of the poorest victims of a crisis not only dulls the macroeconomic stabilization achieved by current public spending, but also increases poverty and inequality in the longer term, with negative consequences for longer-term growth.[39]

82. Social protection measures must be included in national recovery packages. Some countries have already started this process. For example, in 2009 Australia will spend one third of its economic stimulus package on cash payments to low- and middle-income families. Japan has introduced special grants for child-rearing. In South Africa, welfare grants and school feeding programmes have been enhanced, and, at the same time, the coverage of child grants and social pensions was extended. In Brazil and Costa Rica packages include the extension of existing unemployment benefits.

83. As responses to this crisis are devised, States should avoid the risk of seeking short-term quick fixes to poverty and insecurity. Lessons must be learned from past experiences. Countries hit by the Asian crisis in the 1990s put safety nets in place to help the poor cope with the adverse effects of the crisis. In retrospect, these safety nets were too little, too temporary and too late, and they absorbed large amounts of funds. Evidence reveals two key gaps in the protection that safety nets can provide. First, immediate relief may help beneficiaries to cope with crises, but it leaves them just as vulnerable to future crises, which in itself defeats the purpose of social protection. Second, corruption and clientelism were observed in the implementation of a number of the programmes.[40]

84. In this sense, international, regional and national responses to the current crisis should be understood by policymakers as providing an opportunity to establish the backbone of strong and stable social protection programmes. These social protection programmes may start as an emergency response but they must be reinforced and extended in time in order to ensure the full realization of the right to social security and other rights that are fundamental for the protection of the poor.

VIII. The need for international assistance and cooperation

85. Decreasing levels of exports, restricted access to credit and decreased foreign investment threatens to halt economic growth in many developing countries. This, in turn, will limit the capacity of developing countries to use money from public budgets to invest in social protection measures that are necessary to secure the

[38] Martin Ravallion, "Bailing out the world's poorest", *Policy Research Working Paper 4763* (World Bank, Washington D.C., October 2008), p. 6.

[39] Ibid.

[40] International Labour Organization, "Asia in the global economic crisis: impacts and responses from a gender perspective" (February 2009).

enjoyment of basic economic and social rights, which will have a devastating disproportionate impact on the poorest and most vulnerable.

86. Given the limited financial and institutional capacity of some States to finance and implement social protection systems, it is imperative for developed countries to provide assistance to less developed countries. The majority of developing countries have nascent or no social protection systems and are frequently unable to respond, from an economic point of view, with counter-cyclical measures.

87. The financial crisis must not be used as an excuse to break the commitments made by developed countries to provide 0.7 per cent of gross domestic product (GDP) in official development assistance (ODA). Not only must the committed levels of ODA be maintained, but developed countries should respond to the call to pledge an amount equivalent to 0.7 per cent of their stimulus packages as additional aid, over and above existing ODA commitments. This additional aid would be used to protect against the worst effects of the economic crisis in low-income countries and to protect the poor and vulnerable in developing countries.

88. Since the early days of the crisis, world leaders have indicated their will to promote social protection programmes through economic recovery plans. This renewed emphasis on multilateralism and international cooperation is a very positive step. The opportunity must be used to firmly place social protection on the agenda of immediate crisis responses and as a key element in the long-term strategy to reduce poverty and inequality and protect the most vulnerable from future crises.

89. Some recently announced initiatives at the international level that can contribute to the efforts to enhance social protection are discussed below.

A. The Vulnerability Financing Facility

90. The Vulnerability Financing Facility, set up by the World Bank is composed of the Bank's Global Food Crisis Response programme and a rapid social response programme. It seeks to provide technical and financial assistance to support Governments in their immediate and near-term responses to the crisis.

91. While it is too early to assess how funds are being disbursed, it is already known that the rapid social response programme will finance interventions that primarily support access to basic social services, especially maternal and infant health and nutrition as well as school feeding programmes. Second, it will target safety-net programmes, and third it will tackle employment.[41]

92. Grants made by the Vulnerability Financing Facility have the potential of boosting the capacity of domestic social protection programmes in the long term. It is important that the opportunity be used in such a way to ensure that measures are put in place to contribute to the realization of human rights, in particular, the rights to social security and to an adequate standard of living.

93. At the core of the rapid social response programme must be a commitment to universal social protection that benefits all vulnerable groups, together with support for building long-term and sustainable social security systems across the developing world.

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[41] See http://www.worldbank.org/html/extdr/financialcrisis/pdf/WBGResponse-VFF.pdf.

B. G-20 commitments and other donor country measures

94. At their meeting in April 2009, the G-20 recognized their collective responsibility to mitigate the social impact of the crisis in order to minimize long-lasting damage to global potential. In doing so, they committed $50 billion to support social protection, boost trade and safeguard development in low-income countries and pledged to make resources available for social protection in the poorest countries.[42]

95. At the Rome Social Summit in March 2009, G-8 countries also called for the improvement of social welfare systems as they are considered to be the driving force of a virtuous circle of confidence, and recognized the importance of promoting employment, income support and professional skills.[43]

96. Additionally, individual countries have started to pledge money to international financing facilities to support social protection. For example the United Kingdom of Great Britain and Northern Ireland announced in March 2009 that it would contribute $200 million to the World Bank's rapid social response programme.[44] It is essential that donor and recipients countries, as well as development agencies, take all measures to ensure that development policies and programmes are designed and implemented in ways that are consistent with human rights.

C. The social protection floor

97. Among nine major United Nations system-wide initiatives in response to the crisis, the United Nations System Chief Executives Board for Coordination (CEB) launched the social protection floor in April 2009. The concept of the social protection floor consists of two main elements: (a) services to guarantee geographical and financial access to essential public services (such as water and sanitation, health and education); and (b) transfers in the form of a basic set of essential social transfers, in cash and in kind, paid to the poor and vulnerable to provide minimum income security and access to essential services, including health care.[45]

98. ILO and WHO are leading this effort, following previous initiatives by ILO to support reshaping social security systems in order to ensure universal protection. The social protection floor seeks to address key policy issues such as: (a) how can a basic level of social protection for all, including first and foremost, the most vulnerable, be designed and implemented at country level? (b) how can such policies and measures be made compatible with the necessity to build a long-term sustainable architecture of national social protection systems? and (c) how can the fiscal space for social transfers be secured or increased?

99. Studies undertaken by ILO and the United Nations Department of Economic and Social Affairs show that the social protection floor is affordable in the short term and that it can lead to long-term objectives. For example, social transfers could

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[42] "The global plan for recovery and reform", G-20 communiqué (2 April 2009), para. 25.

[43] See http://www.g8italia2009.it/G8/Home/IncontriMinisteriali/MinisterialeLavoro/G8-G8_Layout_locale-1199882116809_IncontroLavoro.htm.

[44] See http://www.dfid.gov.uk/Media-Room/News-Stories/2009/World-Bank-Group-Spring-Meetings-2009-Washington-US/.

[45] CEB Issue Paper: The global financial crisis and its impact on the work of the UN system, p. 20.

be financed with 2 to 5 per cent of the GDP of developing countries and in the longer term increased fiscal space would allow for expanded programmes.[46]

100. CEB argues that the social protection floor can correspond to the existing notion of core obligations, to ensure the realization of, at the very least, minimum essential levels of rights embodied in human rights treaties.[47] In this regard, it is worth stressing that minimum core obligations work in conjunction with the progressive realization of economic, social and cultural rights. States must commit to achieving higher levels of services and benefits when their budgets increase and the fiscal space widens.

101. The core obligations with regard to social security, defined by the Committee on Economic, Social and Cultural Rights in general comment No. 19, usefully define a course to implement the social transfer element of the social protection floor in a way that realizes the right to social security. The obligations emphasize the notions of (a) a minimum essential level of benefits to all individuals and families; (b) access to social security systems on a non-discriminatory basis, especially for disadvantaged and marginalized individuals and groups, and the existence of specific measures to protect them; (c) a need for a strategy and action plans, as ensuring the minimum essential level of benefits is not in itself sufficient to realize this right; and (d) a need to monitor the realization of the right, ensuring accountability mechanisms are put in place.

102. While it remains to be seen if and how States will implement the social protection floor concept, the extent to which this process is based on the recognition of State's obligations with regard to human rights is a central aspect to be considered.

103. The social protection floor should be understood as the minimal set of policies and measures upon which States can build, and make available, higher standards of protection once national budget capacities increase. From a human rights perspective, it cannot be a stand-alone policy, but rather must be seen as the basic element around which a broad national social protection policy is built and articulated.

IX. Conclusions and recommendations

104. **Social economic indicators show that the current global financial crisis is having unparalleled negative consequences on the enjoyment of human rights for many people around the world, in particular for those living in situations of poverty and extreme poverty. The fulfilment of a vast range of human rights is seriously compromised by the absence of social protection schemes to alleviate the acute impact of a possible long period of widespread global recession and economic contraction.**

105. **Responses to the crisis are being devised and it is possible to identify a number of positive steps, for example, the recognition of the need to react to the financial collapse in a globally coordinated fashion. Yet, in order to achieve**

[46] See Bob Huber, "A global social floor" presentation at the Regional Expert Meeting on Social Protection, Dakar, Senegal, 9-11 June 2008.

[47] United Nations System Chief Executives Board for Coordination, Financial and Economic Crises, Joint Crisis Initiatives, p. 46.

durable results, beyond reaffirming political will to rescue economies, the international community must focus on the urgent need to protect the enjoyment of human rights by those who continue to suffer the most acute consequences of the economic crisis, in particular those living in poverty.

106. Social protection systems hold the potential to address the effects of the crisis and reduce vulnerability to future shocks. However, long-term strategies to protect people in the future have thus far been largely ignored by the international community. Even if there is momentum in favour of the expansion of social protection schemes around the world as a response to this crisis, only 5 per cent of the $1 trillion global stimulus package created by the G-20 in April 2009 has been allocated to supporting social protection schemes, boosting trade and safeguarding development in low-income countries, and only a small portion of that will effectively be allocated to social protection.

107. Some of the measures taken in response to the crisis tend to overemphasize the mitigation of the immediate short-term impact of the crisis and overlook the structural constraints that keep significant portions of the population living in extreme poverty well beyond periods of economic turbulence. The human rights framework requires that States adopt a more systematic strategy that focuses on long-term protection of the human rights of the poor.

108. Even when acknowledging the need to invest in social protection, States are often unwilling to recognize these initiatives as part of the fulfilment of their long-standing human rights obligations. States should avoid the risk of seeking short-term quick fixes to poverty and insecurity while neglecting longer-term measures rooted in the recognition of their duty to ensure universal access to social protection at all times.

109. Irrespective of crises, social protection systems are necessary to effectively fulfil long-standing commitments to reduce poverty and protect, respect and fulfil human rights. The World Solidarity Fund or the Rapid Social Response Fund under the new Vulnerability Financing Facility endorsed by the G-20 could be used as a vehicle for such a shift if a solid human rights-based approach guides these initiatives. Social protection is required in order to ensure the realization of all human rights for all, in particular for those who are most vulnerable, marginalized and living a life of misery, and are trapped in poverty and subject to multiple forms of discrimination.

110. In this sense, the independent expert wishes to present the following recommendations:

(a) Strengthening national social protection systems by adopting a human rights-based approach:

(i) States must put in place social protection systems or enhance support to existing systems. Human rights standards provide an adequate basis to frame social protection systems legally and institutionally. Particular attention must be given to social protection by economic stimulus packages; this is a requirement based in international human rights law;

(b) Working towards universal coverage and prioritizing the most vulnerable:

(i) States must work towards progressively building a stable social protection system that is accessible to all without discrimination. The various responses to the crisis that support the expansion of social protection must be formulated bearing in mind that the ultimate goal should be universal coverage by social security. Universal benefits (for example, tax-financed benefits for all) not only limit the risk of unfair exclusion and discrimination, but, as evidence shows, are also more cost-effective;

(ii) States and all other relevant stakeholders supporting social protection must give priority to those who are most exposed to the negative consequences of the current financial crisis. Emergency policies must be implemented urgently to ensure the survival of the poor who are worst affected. If targeted measures are necessary, States must ensure that processes are fair, effective and transparent, and that they incorporate safeguards against any form of discrimination;

(c) Promoting participation, accountability and transparency:

(i) States must fully integrate human rights principles into the design and implementation of social protection systems. Recipients of assistance must be treated as active rights-holders. Mechanisms must be put in place to promote their meaningful participation in the design and implementation of measures assisting them. The provision of information on the functioning of the programmes must be accessible to all, in particular those receiving assistance. Finally, accessible mechanisms must be in place to ensure accountability of those responsible for implementing social protection systems;

(d) Addressing specific concerns in regard to gender, age and disabilities:

(i) States must identify and address the specific obstacles that impede the social integration and protection of particularly vulnerable groups. Social protection systems must include specific measures to ensure, for example, that women are not further excluded from labour markets and that they are offered equal opportunities to work. Similarly, the provision of adequate social services is an essential complement to the provision of social assistance for the full development of children and the social integration of persons with disabilities and the elderly;

(e) Strengthen international cooperation efforts:

(i) States must continue to join forces in order to devise and implement measures to respond to the crisis and promote recovery; such cooperation must be guided by human rights standards. As widely recognized, effective responses to the crisis, in particular in countries that are more exposed to extreme poverty, require international cooperation. Within this context, it is crucial for the levels of official development assistance to be maintained, if not enhanced.